The regular monthly meeting of the Dunbarton Planning Board was held at the above time, date and place with Chairman Ken Swayze presiding. The following members were present:

Kenneth Swayze, Chairman
George Holt, Co-Chairman
Alison Vallieres, Secretary
Michael Guiney
Travis James, Alternate
Charles Frost, Alternate
Les Hammond, Selectman

Town Board/Staff Members:

Ted Vallieres, Selectman
John Trottier, Chairman, Zoning Board of Adjustment

Consultant:

Matt Monahan, Central NH Regional Planning Commission
Steve Laurin, Planning and Zoning Consultant for Dunbarton

Members of the Public:

Don Larson
Shaun Milano
Dennis Beaulieu
Wayne Shater
School Griffis
Chris Chevalier
Art Siciliano
Dan DalPra
David Elberfeld
Brad Klements
Jeff Trexler
John Trottier
David Schroeder
Wayne Bracy
George Duke
Pamela Sopesyk
Melvin Gendron
Joann Wilusz
Lynn Marcou
Keith Hordan
Stas Szopa
Jay McDonough
Nancy LeBlanc
Bill LaBlanc
Lee Richmond
John Stevens
Thomas Brown
Bradford Connelly
Katie McDonald
Ken Swayze, Chairman, opened the meeting at 7:00 p.m. with five regular members and two alternates present. All members present were able to vote.

The Chairman verified with the Secretary that the Meeting had been posted in accordance with the RSA in two public places, posted in the Concord Monitor for one day and published on the Dunbarton Web Page. In addition, postcards were sent to all residents of Dunbarton.

PUBLIC HEARING - PROPOSED ZONING AMENDMENT - OPEN SPACE PRD ORDINANCE

Ken Swayze, Chairman, opened the Public Hearing for the Proposed Zoning Amendment at 7:00 p.m.

He explained the reasoning behind the Proposed Amendment as follows:

1. He stated that Dunbarton already has a PRD Ordinance in place but it is very cumbersome and does not encourage Open Space. This will be good for Conservation Habitat and nature and other uses of Open Space. This Open Space will be held in perpetuity. The Town already has two PRD’s, one of which is Old Fort Estates and the other is on Grapevine Road and has not been completed due to economic conditions.

2. He stated the proposed Ordinance will permit the clustering of lots by reducing building area size and frontage. It also provides developers to be able to be more economical in pricing of lots. Underlying three acre and five acre densities would still be held.

3. This proposed Ordinance takes the Zoning Board out of the permitting process and leaves the approval to the Planning Board. In the past, developers have had to go to the Zoning Board for approval and then to the Planning Board for final approval. Sometimes this has taken up to a year.

Ken Swayze, Chairman, introduced Matt Monahan, Central New Hampshire Regional Planning Commission. Stated the Planning Board had received a fully funded Grant through Central Regional for developing this proposed Ordinance.

Matt Monahan explained the Proposed Ordinance as follows:

Page 1 - Explained the Objectives of this Ordinance as follows:

1. Permanently preserve natural topography and features and provide open space and recreation opportunity in close proximity to dwelling units;

2. Encourage flexibility and creativity in the design of developments through a carefully controlled process of negotiation of particular plans rather than the strict pre-regulation of all plans within a zone;

3. Encourage a less sprawling form of development that makes more efficient use of land, requires shorter networks of streets and utilities, and fosters more economical development and less consumption of rural land;

4. Provide an efficient procedure that can ensure appropriate, high-quality design and site planning and a high-level of environmental amenity;
5. Avoid development of portions of sites that contain important natural and/or cultural features, including, for example, scenic views, wildlife habitat (e.g. large un-fragmented blocks of undeveloped land), areas of highest quality habitat, water resources and historic structures; and

6. Avoid development of portions of sites that are ill-suited for development, including, for example, areas with poor soil conditions, a high water table, that are subject to flooding, or that have excessively steep slopes.

Explained that part of the reason the existing PRD in Dunbarton does not work is that developers have to go through two Boards for approval. This Ordinance streamlines and cuts out some of the red tape and puts the approval process with the Planning Board. It also preserves land and saves money.

A conventional subdivision doesn’t do that with the large lot sizes. Clustering is more economical.

Dunbarton Planning Board has chosen a 20 acre minimum lot size to be able to do this.

Page 2 -

3. Review Process:

   a. Cited an example of clustering would be a 50 acre lot (in the Low Density District) divided by 5 acres = 10 lots allowed on the 50 acre tract. The Open Space Ordinance allows smaller lots no less than two (2) acres on 20 acres with 30 acres remaining for designated Open Space. The ratio would still be five acres per lot. In the Medium Density District, you would use 3 acres to divide into the entire tract acreage.

   b. The applicant may participate in a Design Review with the Planning Board in accordance with RSA 676:4 II(b) prior to the submittal of a formal engineered plan. The Design Review plan shall depict, at a minimum, property lines (for parent tract, proposed open space, and individual dwelling lots), buffers, wetland areas and a rough concept of the clustering. The purpose of such a meeting is to, among other things, verify the base number of lots. The applicant is strongly encouraged to participate in Design Review.

4. Legal Review: Prior to final approval by the Planning Board, the applicant shall submit for review by the Town Counsel, any restrictive covenants, condominium or cooperative agreements, conservation easements, or other legal agreements proposed for use in the open space subdivision. The Town Counsel shall advise the Planning Board of the adequacy of such legal provisions. Final responsibility for the approval of the adequacy of such documentation shall rest with the Planning Board or their designee.

This is to make sure the Open Space is protected and there are no loop holes. The developer pays for the legal costs.

E. Permitted Uses and Ownership of the Lots/Units and Open Space

1. Permitted Uses:

   Stated that the permitted uses are Single Family Homes and Common area/Open Space Uses as described in Section F.

2. Ownership of the Units and Open Space:

   a. There are no restrictions or requirements with regard to the ownership of individual dwelling units/homestead lots (i.e. single family homes).
These are all single family homes. There are no apartments or duplexes. Anyone can own them.

b. Open Space ownership shall be limited to the following entities:

i. The Condominium/Home Owners Association
ii. The Town of Dunbarton or its designee
iii. A third-party not-for-profit conservation entity

c. The Planning Board, with the guidance of Section F below, shall approve the entity or entities that will own and operate the open space. Such approval is required for the approval of the subdivision application. Open space proposed to be owned, operated and/or maintained by the Town of Dunbarton is subject to the approval of the Dunbarton Board of Selectmen in addition to Planning Board approval, with consultation and comment from the Dunbarton Conservation Commission.

Matt Monahan stated this is to make sure the Open Space is something that is wanted.

Dan DalPra asked if the Open Space can be changed at a later time. Could it ever be transferred?

It was noted that the Open Space would have to be permanent. The only way it could be changed would be to go to Superior Court, etc.

George Holt, Conservation Commission and Planning Board stated he would like to express the Conservation Commission's concerns as follows generally, if they were to monitor properties.

1. Concerned with the inherent cost of maintaining properties. There will be a cost of $10,000 - $20,000 and who is going to maintain the easement.

A substantial stewardship fee should be retained to cover future monitoring costs and possible legal fees.

2. The Conservation Commission would like to see the majority of the easements held as deeded covenants which are held and enforced by a Homeowner's Association. The Association would then need to report on an annual basis to the Planning Board regarding the compliance with the covenants.

3. Conservation Commission would like clarification as to whether the required buffer areas could also be used as the open space area.

4. There is no reference in the Ordinance that would limit the amount of unusable land (e.g. wetlands) in open space area.

5. Lot shape requirements appear to be too vague. Also understand the Planning Board wants to have flexibility in shaping the lots.

6. If recreational uses (parks and recreational areas) of the open space area may be allowed, the Section C Objectives should include a statement that allows for recreational opportunity (sports field, community garden, etc.).

George Duke stated that if you have a large parcel which is mostly wetlands, etc., this encourages a contractor who knows that he would be able to put more houses than he would ordinarily be able to with a conventional subdivision. You are encouraging development of undeveloped land.

Planning Board noted that subdivisions which include wetlands have to get Wetlands Crossing Approvals from DES if they develop wetlands, etc. There are setbacks from wetlands (in the Wetlands Conservation
In addition, the Planning Board is in charge of looking at building pockets prior to approval. We are not going to look at it favorably because he already has incentives. In a conventional subdivision, lot lines can and do extend into the wetlands.

A resident asked if he had a two acre lot within a 10 lot Cluster Development, would his taxes be less than if he owned a five acre lot. It was noted that he would probably also receive a tax bill for 1/10 of the taxes for the Open Space that goes with the development. Would definitely have less road frontage to be taxed.

Ted Vallieres noted that over ten acres can be put into Current Use for reduced taxes.

It was noted that the value of wetlands is almost zero.

F. Open Space Permitted Uses

1. Allowable Uses in Designated Open Space: Such uses include but are not limited to the following:
   a. Undisturbed land
   b. A "walking trail" or "nature trail"
   c. Developed parks and recreation areas, public or private (not to exceed 10% of Designated Open Space)
   d. Agriculture and/or forestry activity
   e. Historic/cultural center open and free to the Public (not to exceed 25% of the Designated Open Space)
   f. A combination of permitted uses listed in this section

   Open space uses shall be approved by the Planning Board, in consultation with the Conservation Commission and the Board of Selectmen. Generally, open space shall not be used for dwelling units, infrastructure or roadways; land to remain, in the opinion of the Planning Board, undisturbed as much as possible.

G. Lot Size and Dimensional Requirements

1. Design Standards for Developed Areas: Except as specified in this Chapter, subdivision plans shall comply with any additional applicable standards governing the location and layout of lots and structures found elsewhere in this Ordinance and as set forth in the Subdivision Regulations.

   Noted that Matt Monahan will write these standards.

2. Lot Size Requirements: Individual lots within an Open Space Subdivision shall be a minimum of 2 acres with at least 125 feet of frontage. Frontage for individual lots shall be controlled by Section 1.3 below. Such lots shall be referred to as "homestead lots".

   Dan DalPra asked if the open-space area could be non-contiguous, pockets, or pods.

   The Planning Board stated that we don't intend to do that. Large blocks of land have much more value than small cut up parcels. The lots generally need to be contiguous, but exceptions could be made depending on value and use.

   Matt Monahan stated the public needs reasonable access to Open Space lots.

3. Lot Shape Requirements: Homestead lots shall be, in the opinion of the Planning Board, reasonably symmetrical; "flag" or "pork chop" lots shall not be permitted.

   Planning Board requested that the wording be changed to "flag" or "pork chop" lots shall be discouraged.
It was noted that the Planning Board has the final say on the proposed lots.

4. **Setbacks:** Front, rear and side setbacks on homestead lots shall be the same as those in the underlying district in which the parent tract resides. No house or garage shall be located in a setback.

5. **Other Requirements:** All development proposals and homestead lots shall demonstrate compliance with New Hampshire Department of Environmental Services rules and regulations with regard to septic and well requirements.

H. **Designated Open Space**

1. **Area of Designated Open Space:** Designated Open Space shall be considered land that is not part of the developed area as specified above. 100% of the Designated Open Space shall be permanently protected as open space (i.e. undevelopable and unsubdividable) with the exception of recreational, cultural or historic facilities, if applicable, as specified at the time of plan approval. Designated Open Space shall be considered separate from Common Areas associated with a home owner's association.

2. **Protection and Management of Open Space:**
   
a. **Open Space Boundaries:**
      
ii. Boundary monumentation must be in place before the issuance of any building permits subject to verification by the Building Inspector.

At this point in the Public Hearing, the Planning Board stated they wanted to change the wording of the above ii. to read as follows:

"Boundary monumentation must be in place before the plan is recorded at the Merrimack County Registry of Deeds."

b. **Deeds:**
   
i. Draft deeds for the open space shall be presented to the Planning Board for review by Town Counsel prior to the final approval of the plan. Deeds shall indicate, among other things, uses permitted in the open space, restrictions on future development and subdivision, management responsibilities of the open space, and what entity will own the open space. The Building Inspector shall not issue a building permit for the development until such a deed is executed and recorded at the Merrimack County Registry of Deeds.

c. **Other Documents:**

ii. Any home owner association documents/restrictive covenants shall be presented to the Planning Board for review by Town Counsel prior to the final approval of the plan. Such documents shall describe, among other things, the structure of the Association as well as common area maintenance provisions. Such document(s) shall be executed and recorded at the Merrimack County Registry of Deeds as part of final approval. The Building Inspector shall not issue a building permit for the project
until such document(s) are executed and recorded at the Merrimack County Registry of Deeds.

ii. Easement shall be presented to the Planning Board prior to final approval of the plan. This shall include depictions on the plan as well as any accompanying easement documents to be recorded. Such documents shall be subject to review by Town Counsel. Such document(s) shall be executed and recorded at the Merrimack County Registry of Deeds as part of final approval. The Building Inspector shall not issue a building permit for the project until such document(s) are executed and recorded at the Merrimack County Registry of Deeds.

I. Other Requirements

1. **Common Areas:** Common Area shall be considered separate from Designated Open Space. Common areas shall, in general, provide required services to the residential components of the development. Common areas shall include, but are not limited to roads, drainage structures, community drinking water facilities and community sanitary sewer systems. Except as specified in this Chapter, streets, utilities, drainage facilities and other common area structures shall comply with applicable sections found elsewhere in this Ordinance and requirements specified in the Subdivision Regulations, including the posting of bonds.

2. **Buffers:** The perimeter of the entire development (i.e. the property lines of the original parent tract) shall maintain a 100' "no-build" buffer on all sides of the lot. No building shall take place in the buffer and it shall remain in a natural state (the removal of dead trees is permitted). The Planning Board may require additional vegetation within the buffer to screen the development, if needed.

3. **Road Design and Access:** Individual homestead lots shall front on internal roads. Interconnectivity between subdivision and external roadways is desirable and encouraged (as opposed to cul-de-sacs and dead-ends).

Matt Monahan stated the Planning Board does not want to be able to see the development from the road. There will be only one road into the subdivision.

At this point in the Public Hearing, the Planning Board instructed Matt Monahan to come up with driveway specifications for the Open Space Development to be included in the Ordinance.

4. **Open Space Access:** Reasonable physical access to the Designated Open Space shall be provided.

**Comments from the Public:**

Resident stated as follows:

In general, it sounds to me like you are streamlining the development process. Has there been any thought of limiting the number of developments in the Town? Is it the intent to let growth run rampant in Town?

The Planning Board pointed out that this is not a mandatory Ordinance. Developers can choose to use it. This is a voluntary program. They have to fulfill all the requirements. Planning Board noted there are several approved developments with original proposals for infrastructure such as common septic systems and community wells.

An instance off Black Brook Road, is 28 approved condo units with 28 separate wells. The Planning Board was able to convince the developer to put in two wells for a central water system instead of the 28 wells. There were 200 units on our books that could be developed. There is no Commercial Zone in this community. A Special Exception for business is allowed anywhere in the Town. These are all single family homes.
Ron Slocum asked how much of this Ordinance is going to be appealed to the Zoning Board of Adjustment?

It was noted that residents have the right to go to the Zoning Board of Adjustment.

Art Sciliano - Asked what the size of the Open Space limits were. Hopefully it would be more than a small lot. It was noted that most towns have a minimum for Open Space.

Ted Vallieres noted that Phasing of lots is encouraged by the Planning Board.

Jeff Trexler - Asked if the Lot can have frontage on both sides of the road. (Internal frontage and also frontage on the main road).

John Trottier stated he was the Chairman of the Zoning Board of Adjustment. Had the opportunity to go through several PRD requests. This Ordinance is well written. It is not going to open up the flood gates to development. Would suggest that the minimum starting lot size to qualify be put back to 25 acres.

Margaret Watkins - Stated that the easement should not be drafted only by the applicant. Easements should be a two party agreement between the giver and the givee.

Concerned Resident - Stated he lived at 328 Stark Highway North - Stated this is a small town. Stated that in front of my house there is a highway. It is quite a bit more used that it used to be. I am against it for the following reasons:

1. Against it.
2. Have oversized lots in the back of my house with wide open fields. It would be easier so we could have a development put back there and something to block the view of the development. We like the open fields. Like to be able to get out of our driveway.
3. This would increase the population and families. You would have to increase the school size. That will increase the tax rate.

For these reasons, I am against it.

Steve Laurin - Made reference to the Table of Uses for Low Density District and Medium Density District. This would apply to single family residences. There could be a Home Occupation along with agricultural uses which are permitted.

Wayne Bracy - Noted that this is for Single Family residences only.

At this point in the Public Hearing, Ken Swayze, Chairman, closed the Public Hearing.

Board Discussion:

The Planning Board agreed to make minor changes to the proposed Ordinance as follows:

1. Leave the acreage requirement at 20 acres
2. The Planning Board will have the final say with regard to the design of the proposed development
3. Other minor changes and research recommended

After discussion that the changes were no major changes, the Planning Board passed the following Motion with regard to the proposed Open Space Ordinance:
MOTION:

Ken Swayze made a motion that the Dunbarton Planning Board was in favor of allowing Matt Monahan to go ahead and submit the minor changes as requested within two days and present a final copy to the Planning Board. If there were no calls for major changes (i.e. new public hearing), the proposed Ordinance would go forward to the Town Clerk and placed on the Town Meeting Ballot. Alison Vallieres seconded the motion. The motion passed unanimously.

At this point, Ken Swayze, Chairman, opened the Public Meeting to the regular business meeting.

GENERAL SESSION:

A. General Board Administration:

1. Approval of previous meeting minutes: Wednesday, December 19, 2012.

MOTION:

George Holt made a motion that the Dunbarton Planning Board accept the minutes as written of the meeting of Wednesday, December 19, 2012. Travis James seconded the motion. The motion passed unanimously.

2. Selectmen’s Report

Les Hammond, Selectman, noted there was nothing to report this evening from the Selectmen’s Office with the exception that he had the names of two proposed alternates for the Planning Board.

3. Correspondence

The Secretary reported that there was no correspondence at this time.

OLD BUSINESS:

LOUIS & DEBRA ANN MARCOU AND LOUIS FREDERICK MARCOU REVOCABLE TRUST (G2-03-11 AND G2-03-02) PROPOSED LOT LINE ADJUSTMENT AT THEIR PROPERTY LOCATED ON MANSION ROAD AND CALEB’S WAY IN THE LOW DENSITY DISTRICT IN DUNBARTON, NH CONTINUED FROM PLANNING BOARD MEETING OF DECEMBER 21, 2012

Ken Swayze, Chairman, opened the Public Hearing for the Louis and Debra Ann Marcou and Louis Frederick Marcou Revocable Trust Proposed Lot Line Adjustment.

Steve Laurin, Consultant, presented a Status Report for the Louis and Debra Ann Marcou (Tax Map G2-03-02) and Louis Frederick Marcou Revocable Trust (Tax Map G2-02-11) Proposed Lot Line Adjustment. (attached)

One of the requirements was that Debra Ann Marcou, because her name is on the deed and Lynn Marcou, because she is one of the named owners, also sign the signature block, etc.

Open to the Public:
At this point in the meeting, Rene Ouellet verified that the lots the Planning Board was discussing were lots on the west side of Mansion Road.

The Planning Board noted that Rene Ouellet was not an abutter to this particular application and it was, in fact, the lots on the West side of Mansion Road.

There were no other comments from the public.

Ken Swayze, Chairman, closed the Public Hearing on the Louis Marcou Proposed Lot Line Adjustment.

MOTION:

George Holt made a motion that the Dunbarton Planning Board approve the proposed lot line adjustment between Louis and Debra Ann Marcou (Tax Map G2-03-02) and Louis Frederick Marcou Revocable Trust (Tax Map G2-02-11), allowing for a readjustment/elimination of access provisions, located on Mansion road and Caleb's Way, in the Low Density Residential District (5 acre minimum), subject to the following conditions:

1. Submittal of a final, technically accurate, and graphically correct plan-set in full compliance with all current subdivision regulations and incorporating any and all additional requirements established during deliberation with the Board (per minutes, per status reports, etc.)

2. Approval and receipt of all other required local, State, or Federal permits. There shall be no change(s) to the base plan(s) without re-consultation with the Planning Board, as a result of such other permit approvals.

3. Payment of all fees and costs associated with the Dunbarton Planning Board application process.

4. Prior to plan signing and recording of the mylar, all specified work and improvements at the site, as specified by the Land Subdivision Regulations, shall be completed (i.e. survey monumentation, etc.)

5. Preparation, submittal and filing of all Deeds, easements, legal instruments, and/or other documents required or intended to be filed at the Merrimack County Registry of Deeds, in such content and form acceptable to the Town.

BEVERLY MARCOU REVOCABLE TRUST (G2-04-03) PROPOSED THREE LOT SUBDIVISION AT PROPERTY LOCATED ON MANSION ROAD AND STARK LANE IN THE LOW DENSITY DISTRICT IN DUNBARTON, NH - APPLICANT'S SURVEYOR WILL BE PROVIDING NEW INFORMATION AT THIS MEETING. CONTINUED FROM PLANNING BOARD MEETING OF DECEMBER 21, 2012.

Ken Swayze, Chairman, opened the Public Meeting on the Beverly Marcou Revocable Trust Proposed Three Lot Subdivision.

Alison Vallieres, Secretary, stated she would be stepping down from this application for the same reasons as the previous meeting. At this point, Ken Swayze, Chairman, asked the
members and the public if they had any problems with Alison Vallieres to continue to take the
minutes. There were no objections from the applicant, the Planning Board or the public.

Arthur Siciliano, Surveyor, appeared before the Board on behalf of the Beverly Marcou Trust.
In addition, Joanne Willuz, Trustee, along with Lynn Marcou were present.

George Holt, Planning Board, noted that he had gone on a Site Walk of the property with
Arthur Siciliano, Surveyor, on Wednesday, January 2, 2013. Stated they looked at the
driveway area, the lot corners along the frontage and driveway entrances. In general, site
distances for the driveways were easily more than 400 feet.

The Board noted the following with regard to the Proposed Subdivision:

1. There is reasonable site distance so there are no concerns re the proposed driveway
   locations, etc.

2. The applicants are not willing to grant the Town of Dunbarton an easement for the purpose
   of road improvements at this time. They feel that if and when the Town does improvements
   on the road, they will be taking land from both sides of the road.

3. The Planning Board has concerns about continuing the Special Exception on one of the
   proposed subdivided parcels. The Special Exception was granted with many conditions, one
   of which was that the three parcels at that time be merged together into one parcel. The
   Planning Board agreed that they could not proceed with this proposed three lot subdivision if
   the Special Exception remained.

4. Charles Frost stated that he went on a Site Walk of the property involving the three lot
   proposed subdivision this morning.

5. Noted that Alison Vallieres had received a copy of the old, original driveway permit which
   had been granted by the State Department of Transportation.

Arthur Siciliano, Surveyor, stated that he had included the square feet of the lots to the plan as
requested by the Planning Board. He will add the date of the Wetlands flagging to the plan.

George Holt stated that after review of the file of the Special Exception by members of the Planning
Board, he stated that one of the conditions of the final approval in 1997 was that the lots be merged
together and the two acre parcel for the commercial use be outlined on the plan. If the Planning
Board cannot undo one of those approval conditions, the Special Exception is still valid. The Marcou's
have to give us a parcel of land that can be subdivided.

Steve Laurin, Consultant, noted that the application needed the signature of the Trustee, Joanne
Willuz. She was present and signed the application.

Ken Swayze, Chairman, noted that the proposed application for the three lot subdivision may be
defective, as there appeared a requirement set forth by the Zoning Board of Adjustment that the lots
be merged as a condition of the Special Exception. Accordingly, the applicants requested time to
review the matter.
MOTION:

Charles Frost made a motion that the Dunbarton Planning Board continue the Beverly Marcou Trust Proposed Three Lot Subdivision for 60 days or March 20, 2013 the date of the next regularly scheduled Planning Board Meeting. Travis James seconded the motion. The motion passed unanimously.

Public Comment:

Rene Ouellet asked if there was room for public comment at this time. The Chairman said he would allow limited Public comment. Rene Ouellet stated he would like to add one comment. There are other conditions on the lot. Merging of the three lots was not the only condition. There were many other conditions.

At this point, Ken Swayze, Chairman, closed the Public Hearing. He noted the applicant asked for a continuation for 60 days.

There being no further business, the meeting adjourned with the following motion:

MOTION:

Les Hammond made a motion that the Dunbarton Planning Board adjourn their meeting. Travis James seconded the motion. The motion passed unanimously.

Respectfully submitted,

Alison R. Vallieres, Secretary